

**TCEQ, Air Permits Division
Advisory Group on NSR Application Representations
September 25, 2003
1:30 PM
Bldg. C Room 131, Park 35**

Minutes

I Opening Remarks Matt Baker

After welcoming remarks, Matt reviewed the reasons for this pending rule making. The incorporation of new source review (NSR) into the federal operating permit program has been a source of concern for regulated companies because of the requirement to certify representations on NSR permit applications.

II Background or Update Information Beecher Cameron

The following document was sent to stakeholders and served as a discussion guide:

Under current TCEQ rules, any representation made in an NSR application for a major source is an applicable requirement under the federal operating permit program and is enforceable along with the actual permit conditions. The TCEQ Air Permits Division is currently considering three options to modify the TCEQ rules to address the issue.

- **Amend the TCEQ rules to define categories for which representations in an NSR application would be enforceable under the federal operating permit program. These representations would be limited to those items that affect the amount, nature, and dispersion of air contaminants. This list would include:**
 - emission point/emission rate
 - stack/fugitive location
 - stack height and exit data
 - air contaminant data including fugitives
 - raw materials and fuel input
 - production rate
 - chemical composition of raw materials
 - facility capacity and hours of operation
 - capture/control efficiencies and their basis
 - pollution control device information
 - potential operating scenarios
 - final calculation methodologies including all unit attributes prior to permit issuance (not needed if a continuous emissions monitoring system will be used)

- **Amend the TCEQ rules to retain state enforcement options on all application representations.**
- **Amend the TCEQ rules to retain state enforcement of application representations as a transition period to a system where only those items incorporated into an NSR permit would become federally enforceable.**

Beecher presented what the TCEQ staff believes to be the pros and cons of each item. Item 1 provides a narrowing of certification requirements but retains some subjectivity. Item 2 limits enforcement to permit conditions but removes the federal enforcement option from application representations. Item 3 requires a 10-15 year period for full implementation.

III Discussion Topics Beecher Cameron

A. What is difference between options 2 and 3? Open Discussion

Adoption of item 2 would provide an immediate limitation on certification to only those application representations that are incorporated into an NSR permit. Item 3 would retain certification on representations over a phase in period which would cover the renewal of all outstanding NSR permits.

Some members of the stakeholder group suggested using item 2 with NSR permits modified at renewal to add any necessary permit conditions. Group members also stated that option 3 could lead to a glut of permit amendment requests.

B. What is driving this rule development? Open Discussion

Amendments to Chapter 122 in 2001 to gain full Title V program approval made NSR representations applicable requirements under the federal operating permit program. Title V permit holders have expressed concerns about certifying NSR representations.

C. What degree of enforcement discretion will TCEQ exercise? Open Discussion

Stakeholders are concerned that the requirement to list deviations from representations will simply be turned into a list of notice of violations. The stakeholders specifically mentioned the location of continuous emission monitoring systems and the certification of meteorological data used in modeling.

The staff responded that TCEQ could apply discretion and limit certification of representations to those items affecting the amount and nature of emissions. Responding to the example of a continuous emission monitoring system that was located differently than as represented in an application, the staff indicated this as an instance where emission are affected. In this case a different location can affect the accurate measurement of emissions, and therefore should be an enforceable representation.

When considering modeling results, certain fixed items such as stack height, exit data, and the emission rate

used to reach a modeling conclusion could require certification. Meteorological data would not likely have fixed values. Certain aspects such as prevailing wind direction can be determined but day-to-day measurements cannot be guaranteed. Modeling should be based on a reasonable worse case scenario which should remove the concern about daily, un-certifiable variations in weather.

D. Why not put the enforceable agreements into the Title V permit? . . . Open Discussion

A Title V permit cannot exclude an applicable requirement. Rule changes are required.

E. Other Issues

Stakeholders stated that PSD and non-attainment permits were federally enforceable before the Title V program and that the EPA did not develop that program to require application representations to be federally enforceable conditions.

IV Closing Remarks/Action Items Beecher Cameron

The staff requested that the participants submit written comments on the concepts presented by October 15, 2003. These comments will be used in the development of rule language to limit federal certification. The staff discussed a tentative rule proposal date of January 2004.

V Next Meeting Date

No date established for next meeting

MEETING ATTENDEES

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Advisory Group on NSR Application Representations
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Sign-In Sheet

Attendee Name
(Please Print Legibly)

Thuy Han

Bill Smalling

Sara Hutson

DAVID FREDERICK

Keith Courtney

Paul Coon

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Attendee Name
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Jim Callan

KENYATTA MILES

Kris Gaus

Jim Myers

KATHY BRIGHT

Peggy Waisanen

Mary Jaquez

PATRICK MULLIN

Matt Kuryla

Don Parrish

Russell Woznick

MORAIMA GRINNE

Stephanie Meadow

Carlos Davis

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Attendee Name
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Larry Moon

Lynn Reed

ANN BARKER

Ruben I. Velasquez

Celina Romero

JARRET WESSER

CHESTER RAYFORD

SANDEE SORRELLS

MIKE COLDIRON

Alan Timme

DAND TUCKER

Away Price

KARA ATWOOD

Clay Roesler

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Attendee Name
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Brenda BAXTER

Jan Stannola

Derek Lodricks

Cathy Barnard

Danny Wowell

John Traw

Steve Rassing

Carole Stapper

Randy Parmley

Patrick W. Lee

Bruce L.

Eduardo Acosta

Armando J. Lopez

Matt Baker